

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL RAPAPORT and MICHAEL DAVID
PRODUCTIONS, INC.,

Plaintiffs,

- against -

BARSTOOL SPORTS, INC., ADAM SMITH,
KEVIN CLANCY, ERIC NATHAN, and DAVID
PORTNOY,

Defendants.

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NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

O R D E R

18 Civ. 8783 (NRB)

On November 18, 2019, the Court granted the parties leave to file cross-motions for summary judgment and directed them to confer on a "four-part briefing schedule" agreeable to both sides. ECF No. 72. On November 21, 2019, the parties called the Court to clarify the meaning of a "four-part briefing schedule." The parties were told that it meant that there would be a total of four briefs filed: (1) plaintiffs' motion for summary judgment, (2) defendants' motion for summary judgment and opposition to plaintiffs' motion for summary judgment, (3) plaintiffs' reply to defendants' opposition to plaintiffs' motion for summary judgment and opposition to defendants' motion for summary judgment, and (4) defendants' reply to plaintiffs' opposition to defendants' motion for summary judgment. On November 27, 2019, the parties submitted

a proposed briefing schedule, titled "Stipulation and Proposed Order Extending Case Deadlines and Setting Four-Part Briefing Schedule," which included a recital that acknowledged the Court's directive for a "'four-part briefing schedule'" and set four dates for the parties to submit their briefs. See ECF No. 73. On December 3, 2019, the Court endorsed the proposed briefing schedule with slight modifications to the four proposed due dates. See ECF No. 74.

Yesterday, defendants filed their motion for summary judgment and opposition to plaintiffs' motion for summary judgment. However, instead of submitting one brief, defendants submitted two briefs, one for their motion for summary judgment and one for their opposition to plaintiffs' motion for summary judgment. See ECF Nos. 120 & 123.

Four is not the same number as six. Defendants have failed to comply with the Court's directive that the parties brief their cross-motions using a total of four briefs, and thus the Court strikes defendants' motion for summary judgment and their opposition to plaintiffs' motion for summary judgment, ECF Nos. 120 & 123. Defendants are directed to file promptly a single brief of no more than 25 pages in support of their motion for summary judgment and in opposition to plaintiffs' motion for summary judgment.

Dated: New York, New York
April 8, 2020

A handwritten signature in blue ink, reading "Naomi Reice Buchwald", is positioned above a horizontal line.

NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE